

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 17, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

NICHOLE DIANE HOLLAND,

Defendant.

No. 4:22-CR-06056-SAB-2

ORDER FOLLOWING INITIAL
APPEARANCE AND
ARRAIGNMENT AND SETTING
DETENTION HEARING

On Tuesday, January 17, 2023, Defendant made an initial appearance and was arraigned based on the Indictment (ECF No. 6). Defendant was represented by court-appointed attorney Kenneth Therrien. Assistant United States Attorney Patrick Cashman represented the United States. With Defendant's consent, Defendant appeared by video from Richland, Washington.

Defendant was advised of and acknowledged Defendant's rights.

The Court entered a plea of not guilty on Defendant's behalf.

Mr. Therrien, a member of the Criminal Justice Act Panel, was previously appointed to represent Defendant, and that appointment was affirmed.

Prior to the hearing, the United States filed a Motion for Detention (ECF No. 32).

1 Accordingly, **IT IS ORDERED:**

2 1. The Court directs the parties to review the Local Criminal Rules
3 governing discovery and other issues in this case.
4 <http://www.waed.uscourts.gov/court-info/local-rules-and-orders/general-orders>.

5 2. Under federal law, including Rule 5(f) of the Federal Rules of
6 Criminal Procedure, *Brady v. Maryland*, 373 U.S. 83 (1963), and all applicable
7 decisions from the Supreme Court and the Ninth Circuit interpreting *Brady*, the
8 United States has a continuing obligation to produce all information or evidence
9 known to the United States relating to guilt or punishment that might reasonably be
10 considered favorable to Defendant's case, even if the evidence is not admissible so
11 long as it is reasonably likely to lead to admissible evidence. *See United States v.*
12 *Price*, 566 F.3d 900, 913 n.14 (9th Cir. 2009). Accordingly, the Court orders the
13 United States to produce to Defendant in a timely manner all such information or
14 evidence.

15 Information or evidence may be favorable to a defendant's case if it either
16 may help bolster the defendant's case or impeach a prosecutor's witness or other
17 government evidence. If doubt exists, it should be resolved in favor of Defendant
18 with full disclosure being made.

19 If the United States believes that a required disclosure would compromise
20 witness safety, victim rights, national security, a sensitive law-enforcement

1 technique, or any other substantial government interest, the United States may
2 apply to the Court for a modification of the requirements of this Disclosure Order,
3 which may include *in camera* review and/or withholding or subjecting to a
4 protective order all or part of the information.

5 This Disclosure Order is entered under Rule 5(f) and does not relieve any
6 party in this matter of any other discovery obligation. The consequences for
7 violating either this Disclosure Order or the United States' obligations under *Brady*
8 include, but are not limited to, the following: contempt, sanction, referral to a
9 disciplinary authority, adverse jury instruction, exclusion of evidence, and
10 dismissal of charges. Nothing in this Disclosure Order enlarges or diminishes the
11 United States' obligation to disclose information and evidence to a defendant under
12 *Brady*, as interpreted and applied under Supreme Court and Ninth Circuit
13 precedent. As the Supreme Court noted, "the government violates the
14 Constitution's Due Process Clause 'if it withholds evidence that is favorable to the
15 defense and material to the defendant's guilt or punishment.'" *Turner v. United*
16 *States*, 137 S. Ct. 1885, 1888 (2017) (quoting *Smith v. Cain*, 565 U.S. 73, 75
17 (2012)).

18 3. A detention hearing was set before Magistrate Judge James A.
19 Goeke in Richland, Washington, on Friday, January 20, 2023, at 10:00 AM.

1 4. Pending the hearing, Defendant shall be detained in the custody of the
2 United States Marshals Service and produced for the hearing.¹ To the extent
3 practicable, Defendant shall be confined separately from persons awaiting or
4 serving sentences or being held in custody pending appeal. Defendant shall be
5 afforded reasonable opportunity for private consultation with counsel. On order of
6 a court of the United States or on request of an attorney for the United States, the
7 person in charge of the corrections facility in which Defendant is confined shall
8 deliver Defendant to the United States Marshals Service for the purpose of an
9 appearance in connection with a court proceeding.

10 5. The United States Probation/Pretrial Services Office shall prepare a
11 pretrial services report prior to the hearing and shall notify defense counsel prior to
12 interviewing Defendant.

13 **IT IS SO ORDERED.**

14 DATED January 17, 2023.



Alexander C. Ekstrom

ALEXANDER C. EKSTROM
UNITED STATES MAGISTRATE JUDGE

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¹ See 18 U.S.C. § 3142(f).